



COPY

CERTIFIED TRUE COPY

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY BOARD OF REAL
ESTATE APPRAISERS

IN THE MATTER OF THE LICENSE OF	:	
	:	Administrative Action
SCOTT C. SUTERA	:	
License # 42RC00232900	:	
	:	FINAL ORDER
	:	OF DISCIPLINE
TO ENGAGE IN THE PRACTICE OF	:	
REAL ESTATE APPRAISING IN	:	
THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey Board of Real Estate Appraisers (the "Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

1. Scott S. Sutera ("Respondent") is a State Certified Residential Real Estate Appraiser in the State of New Jersey and has been a licensee at all times relevant hereto.

2. On or about December 9, 2013, Respondent completed and submitted an online biennial license renewal form and Respondent's license was then renewed through December 31, 2015.

3. Respondent was asked on the biennial renewal

application whether Respondent "completed the continuing education requirement during the past two years," referring to the biennial renewal period of January 1, 2012 through December 31, 2013. The renewal application included specific instructions regarding this question, which read:

As a condition of renewal, licensees are required to obtain at least 28 credit hours of approved continuing education for each biennial renewal period subsequent to licensure/certification or 14 hours of continuing education if initially licensed or certified in the first six months of the second year. If initially licensed or certified during the last six months of the second year, no continuing education is required. If you are exempt from this requirement for this renewal period only, please answer "yes" to this question. Credits may not be carried over to another renewal period.

Respondent answered "yes" to the question and certified that answer to be true and complete by clicking on the "Submit Answers" button and proceeding with the application.

4. Respondent was asked on the biennial renewal form whether Respondent successfully completed the seven hour National USPAP Update Course or its equivalent during the past two years, referring to the biennial period of January 1, 2012 through December 31, 2013. The renewal application included specific instructions regarding this question, which read:

As a condition of renewal, licensees must successfully complete the seven-hour National USPAP Update Course,

or its equivalent, at a minimum of every two years. Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB.

Respondent answered "yes" to this question and certified that answer to be true and complete by clicking on the "Submit Answers" button and proceeding with the application.

5. After January 1, 2014, the Board commenced a continuing education audit, asking a random sampling of its licensees to submit documentation to verify completion of required continuing education. Respondent was selected for inclusion within the continuing education audit.

6. On or about April 30, 2014, all licensees selected for inclusion in the audit were sent a notice, by regular mail, addressed to the address of record that the licensee maintained with the Board, advising of the need to supply copies of documentation maintained to verify continuing education hours claimed.

7. Respondent replied to the April 2014 letter, but did not supply any documentation verifying Respondent's completion of any hours of continuing education or completion of a seven hour USPAP Update Course. Respondent maintained that his house was flooded and his important appraisal documents were

destroyed. Respondent maintained that he would contact the continuing education provider where he completed his courses and get duplicate copies of certificates of completion. Respondent professed that he would send the certificates as soon as he received them.

8. The Board received no further information or documentation from Respondent.

CONCLUSIONS OF LAW

Pursuant to N.J.S.A. 45:14F-18 and N.J.A.C. 13:40A-5.3, all licensed and certified real estate appraisers are required to complete all continuing education requirements established by "The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria" promulgated by the Appraisal Qualifications Board of the Appraisal Foundation (the "AQB"). The AQB requirements are incorporated by reference in the Board's regulations. For the two year period of January 1, 2012 - December 31, 2013, the AQB Qualification Criteria mandated that appraisers complete a minimum of twenty-eight class hours of approved continuing education.

Pursuant to N.J.A.C. 13:40A-5.4, all licensed and certified appraisers are required to complete a seven hour National Update Course on the Uniform Standards of Professional Appraisal

Practice ("USPAP"), or its equivalent, at least once every twenty-four months. The AQB Qualification Criteria similarly mandate that appraisers must successfully complete the seven hour USPAP Update Course, or its equivalent, every two calendar years.

Pursuant to N.J.A.C. 13:40A-5.8, licensees or certificate holders are required to maintain documentation for at least four years of continuing education hours completed in order to verify program attendance and/or activity completion.

Respondent failed to demonstrate, to the satisfaction of the Board, completion of the required twenty-eight hours of approved continuing education for the two year period of January 1, 2012 - December 31, 2013. Respondent failed to demonstrate completion of any hours of required continuing education. The Board therefore finds Respondent in violation of N.J.A.C. 13:40A-5.3, which in turn subjects Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and 45:1-21(h).

Respondent failed to demonstrate, to the satisfaction of the Board, completion of a seven hour USPAP Update Course, or its equivalent, for the two year period of January 1, 2012 - December 31, 2013. The Board therefore finds Respondent in violation of N.J.A.C. 13:40A-5.4, which in turn subjects

Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and 45:1-21(h).]

Based on the above findings and conclusions, the Board further finds that Respondent falsely certified on the renewal application that all responses to all questions that were asked on that application were true. By doing so, the Board finds that Respondent engaged in misrepresentation, and is therefore subject to sanction pursuant to N.J.S.A. 45:1-21(b).

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline seeking a suspension and two thousand five hundred dollars (\$2500) in civil penalties was entered on August 21, 2014. Copies were served upon Respondent via regular and certified mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the thirtieth day following entry unless Respondent requested a modification or dismissal of the stated findings of fact and conclusions of law by setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Respondent replied to the Provisional Order of Discipline by providing certificates of completion for 28 hours of continuing education completed in September 2014. Although Respondent maintained that he had timely completed continuing education and had lost the certificates due to storm damage, he was unable to obtain duplicate certificates from any provider. Respondent intended to apply the 28 hours completed in September 2014 to cure the deficiency from the previous biennial period. Respondent acknowledged that he would complete an additional 28 hours prior to his next renewal to satisfy the requirements of the current biennial period.

The Board reviewed Respondent's submissions and determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board was not persuaded that the submitted materials merited further consideration, as Respondent did not dispute the findings of fact or conclusions of law. Inasmuch as Respondent cured the deficiency of the previous biennial period, the Board determined that suspension was no longer warranted. However, the Board determined that Respondent's failure to timely complete continuing education and corresponding false answer on his renewal warrants imposition of the monetary civil penalties.

WHEREFORE, it is on this 5th day of January, ~~2014~~ ²⁰¹⁵

ORDERED that:

1. The continuing education hours taken in September 2014 and applied to cure the deficiency from the previous biennial period shall not be used to satisfy the requirements of the current biennial period. Respondent shall complete an additional twenty-eight hours of continuing education prior to December 31, 2015 to satisfy the requirements of the current biennial period.

2. Respondent is assessed a civil penalty in the amount of two thousand five hundred dollars (\$2500). Said penalty is an aggregate penalty, which includes a penalty in the amount of one thousand dollars (\$1000) for having provided false answers to two questions on the biennial renewal application (that is, falsely claiming completion of twenty-eight hours of continuing education credit and falsely claiming completion of a seven hour USPAP Update Course, or its equivalent), one thousand dollars (\$1000) for failing to timely complete twenty-eight hours of required continuing education, and five hundred dollars (\$500) for failing to timely complete a seven hour USPAP Update Course, or its equivalent. Payment shall be made by certified check, bank cashier check, or money order payable to "State of New

Jersey," or by wire transfer, direct deposit, or credit card payment delivered or mailed to Charles Kirk, Executive Director, New Jersey Board of Real Estate Appraisers, P.O. Box 45032, Newark, New Jersey 07101. Any other form of payment will be rejected and will be returned to the party making the payment. Payment shall be made no later than fifteen (15) days after the date of filing of this Final Order of Discipline. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

NEW JERSEY STATE REAL
ESTATE APPRAISER BOARD

By: _____

Joseph Palumbo
Board President